

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MUNCEY MORRIS,

Plaintiff,

Case No. 11-cv-10938

v

Honorable Thomas L. Ludington
Magistrate Judge Steven Whalen

NEWBERRY CORRECTIONAL FACILITY, et al.,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
COMPLAINT WITHOUT PREJUDICE**

On March 9, 2011, Plaintiff Muncey Morris filed a pro se prisoner civil rights complaint against Defendants. Specifically, Morris alleged that Defendants were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment. In his complaint, Morris had named 32 Defendants; 19 of these Defendants have been dismissed.

There are thirteen remaining Defendants.¹ These have not yet been served as required by Federal Rule of Civil Procedure 4(m). On October 31, 2014, Magistrate Judge Steven Whalen issued a report recommending that Morris's Amendment Complaint be dismissed without prejudice for failure to prosecute. Rep. & Rec. 4, ECF No. 109. Magistrate Judge Whalen stated that, not only had Morris not served twelve Defendants, he had not responded to the show cause order. *Id.* at 3. Accordingly, he recommended dismissal without prejudice. *Id.* at 4.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report,

¹ These Defendants are identified as: (1) Prison Health Services; (2) Sally; (3) Dr. Shanti Gopal; (4) John Doe; (5) Jane Doe; (6) Correctional Medical Services; (7) Dr. Jeffrey Steele; (8) Tyra S. McKinney; (9) Richard Hallworth; (10) Dennis Wade; (11) Mark Jansen; (12) Dr. Hariesh Pandya; (13) Lawrence Pomeroy.

neither Plaintiff nor Defendants filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation (ECF No. 109) is **ADOPTED**.

It is further **ORDERED** that Plaintiff Morris's Amended Complaint (ECF No. 56) is **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: November 24, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and upon Muncey Morris, at 12882 Dwyer, Detroit, MI 48212 by first class U.S. mail on November 24, 2014.

s/Tracy A. Jacobs
TRACY A. JACOBS